

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

JOSE A. CASTILLO ALEMAN §
§
VS. § CIVIL ACTION NO. 21-2970
§
WATERMARK RESTORATION, INC. §

**UNOPPOSED MOTION FOR LEAVE TO FILE
PLAINTIFF'S THIRD AMENDED COMPLAINT**

TO THE HONORABLE UNITED STATES JUDGE:

COMES NOW Plaintiff **JOSE A. CASTILLO ALEMAN**, (hereinafter referred to as “Plaintiffs”) complaining of **WATERMARK RESTORATION, INC. A/K/A DONAHOO RESTORATION, INC.; WATERMARK RESTORATION, LTD, BSG PAINTING, LLC AND BLG PAINTING, LLC** (hereinafter collectively referred to as “Defendants”), in the above styled and numbered cause, and asks the court to allow them to file Plaintiff’s Third Amended Complaint.

I.

1. On or about September 10, 2021, Defendants removed this case to Federal Court.
2. On November 10, 2022, the Court entered a Rule 16 Scheduling Order which set December 30, 2022 as the deadline to file motions to amend pleadings or to join additional parties.

II.

ARGUMENT & AUTHORITIES

3. Plaintiff **JOSE A. CASTILLO ALEMAN**, (hereinafter referred to as “Plaintiff”) files this Motion pursuant to the Rule 16 Scheduling Order entered in this case.
4. Plaintiff is amending his complaint to clarify his causes of action against Defendants.
5. Leave of court to amend a party’s pleadings shall be freely given when justice so

requires. Fed. R. Civ. Proc. 15(a); *Foman v. Davis*, 371 US 178, 182, 83 S.Ct. 227, 230 (1962). “In the absence of any apparent or declared reason - such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of the amendment, etc. –, the leave should, as the rules require, be ‘freely given’.” *Id.*

6. There are no apparent or declared reasons for denying Plaintiff’s leave to amend. Rather, justice requires amendment of Plaintiff’s complaint so that they can include all allegations and claims against Defendants. Any changes to the pleading do not alter the nature of the trial so this amendment would not prejudice Defendants. See attached Plaintiff’s Third Amended Complaint which is being filed contemporaneously with this motion.

III.

7. Counsel for Defendants have advised the undersigned that Defendants do not oppose this motion. For these reasons, Plaintiff ask the Court to grant leave to file his Third Amended Complaint.

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing has been sent to all counsel of record in accordance with Federal Rules of Civil Procedure on this 28th day of December, 2022:

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